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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,605	06/15/2007	Karl-Heinz Kohler	101215-221	7048
27387 7590 07/20/2009 NORRIS, MCLAUGHLIN & MARCUS, P.A. 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER DONNELLY, JEROME W	
			ART UNIT 3764	PAPER NUMBER
			MAIL DATE 07/20/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/572,605

Applicant(s)

KOHLER, KARL-HEINZ

Examiner

JEROME W. DONNELLY

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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Claim*** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-8, 10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler in view of Rudy.

Kohler discloses a Rope game device comprising: ropes arranged within an outer frame device and forming a special net and which are attached in a tension able manner to node points of the outer frame said device having frame elements, said device having rods and node points and at least one hollow ball module held in a tension able manner.

Kohler however does not disclose his device wherein his frame member is a Koshedron.

Rudy teaches providing a play ground climber in the shape of a Koshedron. Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to manufacture a playground structure of a Koshedron as one of several design shapes available in the art of designing playground structures.

As to applicants claims of his device including frame elements having the shape of an equilateral triangle, the examiner notes figs 19 and 20 of Kohler, which disclose triangles and other various shaped frame components.

Absent any claimed criticality as to the specific shape of the frame members, which comprise the Koshedron the examiner notes that so long as the frame supports the ball of Kohler, it has accomplished it's intended use of supporting the interior ball.

In regard to claims 2, 4, 6-8 and 15, the examiner notes that applicant's claims of twelve regular pentagons, 12 note points, five guy ropes, two ropes and other specific numbers of components are considered as obvious in view of the disclosure of Kohler in view of the embodiments disclosed in the figs. of Kohler.

The examiner notes that the number of claimed connection points and ropes are obvious design choices in the art in view of the numerous ropes and connection points disclosed by Kohler, so as to allow various motion responses when a user plays within the ball member of Kohler. Kohler teaches providing a device of several shapes having numerous connection points and numerous rope configurations.

Absent any proven unexpected results and claimed criticality as to the specific number of ropes frame segments and rope lengths. The examiner notes that the claimed configuration of applicant's device is an obvious design in view of the combined disclosure of Kohler in view of Rudy.

In regard to claim 16, the examiner notes that partitions and retaining walls, in play areas are known and obvious in view of the art for the purpose of separating play areas and retaining users within the device.

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Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler in view of Rudy and further in view of Melrose et al. Fig. 7.

Kohler in view of Rudy discloses the device of claims 12-14 substantially as claimed absent the device disclosing threaded bolts, a wall, a hollow body and a frame extension 96.

Melrose et al. Figs 7 and 5-6 teach all of the features of threaded bolts a wall, a hollow body and a frame extension.

Given the above teachings of fastening a flexible elongate member to a hollow play structure the examiner notes that it would have been obvious to one of ordinary skill in the art to fasten the rope retaining elements of Kohler in view of Rudy using such a configuration as a known means of fastening in view of the fastening configuration of Melrose et al Fig. 7.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear as to where the pre-amble of claim 1 ends and where the body of the claim begins.

Characterized in the claims is non-descriptive.

On the same, is indefinite in claim 1.

Special form is non-descriptive, in claim 1.

In claim 5, further stabilizing element is indefinite.

Each pentagon in claims 7 and 8 has no antecedent basis.

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In claim 16, it is unclear as to what "especially" is referring to.

In claims 6 and 9 the applicant, must make it clear, as to whether one or two ball members are being claimed.

In regard to claim 9, it is not clear as to, whether or not two inner bar modules are being claimed.

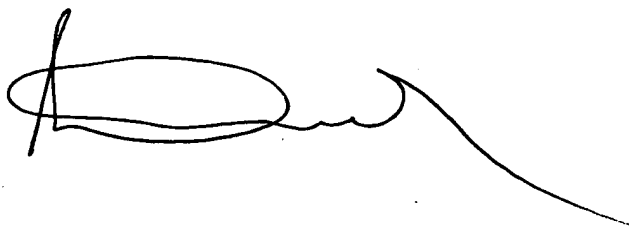
Claims 3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Lehmann 3970301.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571)272-4975.

Em/Jerome Donnelly

June 16, 2009

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'Jerome Donnelly', written over a horizontal line. The signature is stylized with a large loop and a long tail.